Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION	See Form PCT/IPEA/416
A401000WO		
International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/EP2004/003162	25.03.2004	14.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant		
FASALEX GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
   a. ☒ *(sent to the applicant and to the International Bureau)* a total of 3 sheets, as follows:
      ☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
      ☒ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
   b. ☐ *(sent to the International Bureau only)* a total of (indicate type and number of electronic carrier(s))

      _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒	Box No. I	Basis of the report
☐	Box No. II	Priority
☐	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐	Box No. IV	Lack of unity of invention
☒	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☒	Box No. VI	Certain documents cited
☐	Box No. VII	Certain defects in the international application
☐	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/003162

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

☐ international search (Rule 12.3 and 23.1(b))

☐ publication of the international application (Rule 12.4)

☐ international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☐ the international application as originally filed/furnished

☒ the description:

pages 1-11 as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☒ the claims:

nos. _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* 1-10 received by this Authority on 09.06.2005 with letter of 07.06.2005

nos.* _____ received by this Authority on _____

☐ the drawings:

sheets _____ as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing *(specify)*: _____

☐ any table(s) related to sequence listing *(specify)*: _____

4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☒ the claims, nos. 1,9

☐ the drawings, sheets/figs _____

☐ the sequence listing *(specify)*: _____

☐ any table(s) related to sequence listing *(specify)*: _____

* *If item 4 applies, some or all of those sheets may be marked "superseded."*

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/003162

Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims		YES
	Claims	1-10	NO
Inventive step (IS)	Claims		YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

This report makes reference to the following documents:

D1: WO 95/04111 A (RETTENBACHER MARKUS; MUNDIGLER NORBERT (AT)), 9 February 1995 (1995-02-09)

D2: WO 03/008494 A (RETTENMAIER & SOEHNE GMBH & CO; RETTENMAIER JOSEF OTTO (DE)), 30 January 2003 (2003-01-30)

D3: DE 41 21 085 A (AGENCY IND SCIENCE TECHN; OKURA DENKI CO LTD (JP)), 2 January 1992 (1992-01-02)

D4: AT 01682 2001 A (RETTENBACHER MARKUS), 15 January 2003 (2003-01-15)

1. The subject matter of claims 1-10 is not novel (PCT Article 33(2)) over documents D1-D4 (see the passages cited in the search report), which disclose non-expanded mouldings made of fibrous materials such as cellulose or wood fibres, biopolymers such as starch, lignin (contained in wood fibres) or chitosan and synthetic resins such as aldehyde resin, polypropylene or polyurethane, as well as their production process. The resin acids of D1 can be sorted into the additive categories of the plasticisers, bonding agents or parting agents mentioned in the application. The resin acids may

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

also act as thermal and/or UV stabilisers and antioxidising agents (because of the double bonds). The wood fibres in D2 contain at least two water-binding biopolymers: lignin and cellulose. The foils of D3 were naturally produced under pressure (i.e. atmospheric pressure). Pressures higher than atmospheric pressure are generally designated by the clear term of overpressure (PCT Article 6). With regard to the teaching of D4, it should be noted that the mouldings would automatically possess the water contents according to the application because of the influence of the normal ambient humidity.

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International application No.
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Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

Application No. Patent No.	Publication date *(day/month/year)*	Filing date *(day/month/year)*	Priority date (valid claim) *(day/month/year)*
WO 03/035373	01.05.2003	18.10.2002	23.10.2001

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure	Date of non-written disclosure *(day/month/year)*	Date of written disclosure referring to non-written disclosure *(day/month/year)*

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of:

BOX I

The amendments submitted with the letter of 7 June 2005 introduce substantive matter which goes beyond the original disclosure in the international application as filed, thereby contravening PCT Article 34(2)(b). This concerns the following amendments:

1. The inclusion in claim 1 of the application of the phrase, "'immediately after its production', it has a water content of..." Neither the application in general nor the examples in the application contain any indication of the moment when the humidity content of the moulding is determined. On page 3, paragraph 3, of the application, it is stated that the mouldings according to the application must always have (not only immediately after their production) a water content of more than 8.0% by weight. Moreover, this added feature represents a process feature rather than a product feature, since mouldings made of fibrous materials of plant or animal origin tend to absorb humidity from the ambient air up to a point of equilibrium, which generally lies over 8.0% by weight. Thus it appears to be impossible to determine in a clear-cut manner what was the water content of any moulding made of fibrous materials of plant or animal origin immediately after its production.

2. The inclusion of the plastic materials mentioned in the original claim 4 in claims 1 and 9 of the application, without the associated quantity indications; see also page 4, paragraph 2, of the application.